

401 KAR 50:012. General application.

RELATES TO: KRS 224.10-100, 224.20-120, 40 C.F.R. 60.14, 42 U.S.C. 7401 et seq., 7408, 7410

STATUTORY AUTHORITY: KRS 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Environmental and Public Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. 42 USC 7410 likewise requires the state to implement standards for national primary and secondary ambient air quality. This administrative regulation provides guidelines by which all administrative regulations of 401 KAR Chapters 50 to 65, are to be understood.

Section 1. General Application of Administrative Regulations and Standards. Administrative Regulations of the cabinet shall be construed and applied according to subsections (1) through (6) of this section, which shall guide the cabinet in the issuance, modification, and revocation of permits.

(1) All major sources of VOCs located in a county or portion of a county which is designated ozone nonattainment, for any nonattainment classification except marginal, under 401 KAR 51:010, shall install and use control technology which is reasonable and available.

(a) The determination of reasonably available control technology shall be approved by the cabinet and shall be based upon:

1. A Control Techniques Guidelines Document issued by the U.S. EPA and promulgated in regulatory form by the cabinet; or

2. If no Control Techniques Guidelines Document is appropriate, the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The cabinet may require technology that has been applied to similar, but not necessarily identical source categories.

(b) For those reasonably available control technology determinations not based on a control techniques guidelines document, the cabinet shall:

1. Hold a public hearing on the determination.

2. Submit the determination to the U.S. EPA for approval.

(c) For these determinations, that portion of a source with facilities uncontrolled by reasonably available control technology which emit VOCs that sum to 100 tpy or greater shall be considered a major source.

(2) In the absence of a standard specified in these administrative regulations, all major air contaminant sources shall as a minimum apply control procedures that are reasonable, available, and practical.

(3) Nothing in these administrative regulations is intended to permit a practice which is in violation of a statute, ordinance, or administrative regulation.

(4) These administrative regulations shall be complementary to each other, and to other administrative regulations adopted by the cabinet. If a provision of these administrative regulations or the application thereof to a person or circumstance is held to be invalid, the invalidity shall not affect other provisions or application of another part of these administrative regulations and to this end each provision of these administrative regulations and the various applications thereof are declared to be severable.

(5) Except as provided by 401 KAR 50:055, nothing in these administrative regulations shall allow a source to remove control equipment or discontinue procedures previously required in a nonattainment area to achieve the national ambient air quality standards until a state implementation plan containing different requirements has been approved by the U.S. EPA.

(6) For the purpose of applying the definition of modification, an increase in the amount of an air pollutant shall be determined as in 40 CFR 60.14. (5 Ky.R. 352; eff. 6-6-79; Recodified from 401

KAR 50:005, 7-31-90; Am. 18 Ky.R. 2604; 2929; 3333; eff. 6-24-92; 24 Ky.R. 648; eff. 11-12-97; TAm eff. 8-9-2007.)